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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,552	06/13/2005	Klaus Grohe	D4700-00396	5070
8933 7590 02/26/2008 DUANE MORRIS, LLP IP DEPARTMENT 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103-4196				
EXAMINER HUYNH, KHOA D				
ART UNIT		PAPER NUMBER		
3751				
MAIL DATE		DELIVERY MODE		
02/26/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/538,552

Applicant(s)

GROHE, KLAUS

Examiner

Khao D. Huynh

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-10 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-10 and 12-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 5 recites the limitation "the far end of the arm" in line 3. There is insufficient antecedent basis for this limitation in the claim and therefore, renders the claim indefinite.

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the direction of a jet exiting the additional shower fixture is adjustable as recited in claim 6 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

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changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3-10 and 12-15, as presently and best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Perkins (1354838) in view of Colman (6227510) and Elkins et al. (3865310).

Regarding claim 1, the Perkins reference discloses a shower support.

The support includes a shower head (16), a mounting fixture (Fig. 4) for mounting the support such that the support is adjustable, a pivotable arm (at 10) jutting out of the mounting fixture, the arm having a first end connected to the mounting fixture and a second opposite end (*where element 16 is located*), with a water conduit (*the hollow portion of element 10*) extending from the mounting fixture to at least one additional shower fixture (14 or 15) attached along the arm, wherein

the additional shower fixture is arranged to be supplied with water by the water conduit.

The Perkins reference DIFFERS in that the shower head is not a handheld shower head with a hose as claimed. Attention, however, is directed to the Colman reference which discloses another shower support having a shower head (*28b in Fig. 2*) that could be substituted with a handheld shower head (*28b in Fig. 3*) and a hose (40) so that the shower head could be used as a handheld shower unit. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Perkins reference by employing a handheld shower head, in view of the teaching of Colman, in order to convert a fixed shower head into the handheld shower head so that the shower head could be used as a handheld shower unit. Furthermore, the handheld shower head is supplied with water by the hose independently of the at least one additional shower fixture. Even though the Colman reference does not specifically include a receptacle adapted to receive the shower head when the shower head is not in hand operation as claimed, attention, however, is directed to the Elkins et al. reference which discloses a handheld shower head with a receptacle (Fig. 1), wherein the receptacle being arranged at the second opposite end of the arm away from the mounting fixture (Fig. 1), wherein the shower head and the receptacle are configured to allow the shower head to be removed from the receptacle during hand operation of the shower head on the hose. Therefore, it would have been obvious to one of ordinary skill in the art at

the time the invention was made to employ a receptacle for the handheld shower head, in view of the teaching of Elkins et al., in order to allow the handheld shower head to be stowed away when it is not in use, especially since the Colman reference also discloses that the handheld shower head (28b) would be detachably connected to the arm (16) so that the shower head can be used as a handheld shower unit.

Regarding claim 3, wherein the water conduit is defined by a channel that extends through the arm and leads to the additional shower fixture.

Regarding claim 4, wherein the arm comprises a length of hollow, profiled stock, at least from the mounting fixture to the additional shower fixture.

Regarding claim 5, wherein the additional shower fixture is arranged between the mounting fixture and the second opposite end of the arm.

Regarding claim 6, wherein a direction of a jet exiting the additional shower fixture is adjustable.

Regarding claim 7, wherein the additional shower fixture is mounted on a side of the arm jutting from the mounting fixture.

Regarding claim 8, wherein at least one additional shower fixture is mounted on an underside of the arm.

Regarding claim 9, wherein the shower support has multiple additional shower fixtures (14, 15) and wherein the water conduit provides a water supply common to all additional shower fixtures.

Regarding claim 10, wherein the additional shower fixture is non-detachable.

Regarding claim 12, wherein the arm is pivotable relative to the mounting fixture about a horizontal axis orthogonal to a longitudinal axis of the arm.

Regarding claim 13, wherein a water conduit passes a pivotable connection of the arm to the mounting fixture (Fig. 4 of Perkins).

Regarding claims 14 and 15, wherein the arm (Fig. 3 of Colman) is configured in the form of a fork, wherein the additional shower fixtures are obviously arranged on outer faces of the tines of the fork.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (571) 272-4888. The examiner can normally be reached on M-F (7:00-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Khoa D. Huynh/
Primary Examiner, Art Unit 3751